IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.MC.No. 3027 of 2007()

AGAINST THE ORDER IN LPC. 129 /2006 IN
CC.499/2006 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED

SIDDIQUE, S/O IBRAHIM,
NEERCHAL, BADAR NAGAR,
POST KUDLU, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY OF THE
SUB INSPECTOR OF POLICE, KASARAGOD POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/10/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. Nos. 3027 Of 2007

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Dated this the 3rd day of October, 2007

ORDER

The petitioner faces indictment in a prosecution inter alia under Sec.153 A read with 149 IPC. Investigation is complete. Final report has been filed. Cognizance was taken. The petitioner has not entered appearance so far. Co-accused faced trial were found not guilty and acquitted. The petitioner was not available for trial. The case against him was split up. The same has been transferred to the list of long pending cases. The petitioner finds warrant of arrest issued by the learned Magistrate chasing him. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioners earlier was not wilflul. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE